

REMARKS**Claim amendments**

Claims 1-6, 38-44 and 56-60 have been canceled. Applicants reserve the right to pursue the subject matter of the cancelled claims in a continuing application. Applicants do not hereby abandon or waive any rights in the subject matter of the cancelled claims.

Claims 45-55 have been amended. Claims 45-48 have been amended to more clearly recite a monoclonal antibody produced by a hybridoma cell line deposited under A.T.C.C. Accession Number PTA-814, A.T.C.C. Accession Number PTA-813, A.T.C.C. Accession number PTA-815 or A.T.C.C. Accession Number PTA-812, respectively. Support for the amendment can be found, for example, on page 8, lines 17-25 of the specification.

Claims 49-51 have been amended to more clearly recite a monoclonal antibody or antigen binding fragment thereof having the same binding specificity as a monoclonal antibody produced by a hybridoma deposited under A.T.T.C. Accession Number PTA-814, A.T.T.C. Accession Number PTA 813, or A.T.T.C. Accession Number PTA 815, respectively, wherein the monoclonal antibody or antigen binding fragment thereof has binding specificity for ouabain and for the ouabain component of a ouabain-carrier complex. Support for the amendment can be found, for example, on page 8, lines 17-25 of the specification.

Claims 52-55 have been amended to more clearly recite a hybridoma cell line deposited under A.T.C.C. Accession Number PTA-814, A.T.C.C. Accession Number PTA-813, A.T.C.C. Accession Number PTA-815 or A.T.C.C. Accession Number PTA-812, respectively.

Claim 61 has been added. Support for new Claim 61 can be found, for example, on page 2, lines 20-23).

Rejection of Claims 2, 5, 6, 41-43, 45-48, 49-55 ad 57-59 under 35 U.S.C. §112

The Examiner states that the "Deposit Declaration is still defective" because the Declaration "does not make reference to the irrevocable removal of all restrictions imposed by the depositor on the availability to the public of deposited materials upon granting of a patent" (Office Action, page 2).

Applicants respectfully disagree. In accordance with the Examiner's previous requests, Applicants have filed the following statements signed by the Attorney of record:

- 1) Statements Under 37 C.F.R. §1.806 and §1.808 mailed to the U.S. Patent Office on October 9, 2002 (see paragraph 4);
- 2) Statements Under 37 C.F.R. §1.805 mailed to the U.S. Patent Office on December 24, 2003; and
- 3) Statement Regarding Replacement of Deposit mailed to the U.S. Patent Office on March 13, 2006.

Copies of the three statements listed above are provided for the Examiner's convenience. Applicant directs the Examiner's attention to paragraph 4 of the Statements Under 37 C.F.R. §1.806 and §1.808 document mailed to the U.S. Patent Office on October 9, 2002 wherein Applicant's Attorney clearly states that:

all restrictions imposed by the depositor on the availability to the public of deposited materials will be irrevocably removed upon the granting of a patent on the above-referenced application.

However, and although not required, Applicant's Attorney is filing concurrently a document entitled "Statements Under 37 C.F.R. §1.805, §1.806 and §1.807" signed by the Attorney of record and in which all the required statements for Deposit of Biological materials are present in a single document, for the Examiner's further convenience.

The submission of the three statements listed above, or the submission of the document entitled "Statements Under 37 C.F.R. §1.805, §1.806 and §1.807" submitted concurrently, obviates the rejection under 35 U.S.C. §112, first paragraph.

Rejection of Claims 1, 3, 4, 38 and 39 under 35 U.S.C. §112, first paragraph

The Examiner states that the rejection of Claims 1, 3, 4, 38 and 39 under 35 U.S.C. §112, first paragraph “raises the written description issue of whether or not the instantly claimed broad limitations had clear support in the specification and the claims as originally filed” (Office Action, pages 3-4). It is the Examiner’s opinion that the examples in Applicants’ specification “do not support the broadly claimed subgenus” (Office Action, page 4).

Applicants respectfully disagree. However, in order to further prosecution of the subject application, Claims 1, 3, 4, 38 and 39 have been canceled.

Rejection of Claims 40-44 under 35 U.S.C. §112, first paragraph

The Examiner states that “Figure 2 does not provide support for express, implicit or inherent disclosure of the instantly claimed invention” of Claims 40-44 (Office Action, page 6).

Applicants respectfully disagree. However, in order to further prosecution of the subject application, Claims 40-44 have been canceled.

Rejection of Claims 56-60 under 35 U.S.C. §112, first paragraph

The Examiner states that the rejection of Claims 56-60 under 35 U.S.C. §112, first paragraph “raises the written description issue of whether or not the instantly claimed broad limitations has clear support in the specification and the claims as originally filed” (Office Action, page 6).

Applicants respectfully disagree. However, in order to further prosecution of the subject application, Claims 56-60 have been canceled.

Rejection of Claim 39 under 35 U.S.C. §112, first paragraph

The Examiner states that “the specification as originally filed describes only a single antibody that functions as claimed, does not describe structural features common to the members of the genus which features constitute a substantial portion of the genus or disclose sufficiently detailed, relevant identifying characteristics, functional characteristics coupled with a known or disclosed correlation between function and structure” (Office Action, pages 7-8).

Applicants respectfully disagree. However, in order to further prosecution of the subject application, Claim 39 has been canceled.

Rejection of Claims 38, 44 and 60 under 35 U.S.C. §112, first paragraph

The Examiner states that the issue remains that "implicit in the recitation of a 'pharmaceutical' composition is the *in vivo* use thereof for treatment" (Office Action, page 8).

Applicants respectfully disagree. However, in order to further prosecution of the subject application, Claims 38, 44 and 60 have been canceled.


CONCLUSION

In view of the above amendments and remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

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